

Decision _____

PROPOSED DECISION Agenda # _____
Ratesetting

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U902E) for Approval of its Proposals for Dynamic Pricing and Recovery of Incremental Expenditures Required for Implementation.	Application 10-07-009 (Filed July 6, 2010)
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**DECISION GRANTING INTERVENOR COMPENSATION
TO DISABILITY RIGHTS ADVOCATES
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-12-004**

Intervenor: Disability Rights Advocates	For contribution to D.12-12-004
Claimed (\$): 50,639.47	Awarded (\$): 50,610.47
Assigned Commissioner: Michael Picker	Assigned ALJ: John Wong

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	D.12-12-004 adopted a dynamic pricing structure for residential and small commercial customers and denied approval of a settlement agreement reached between most of the active parties and San Diego Gas & Electric (SDG&E)'s. D.12-12-004 also adopted a separately negotiated Memorandum of Understanding (MOU) between SDG&E and DisabRA addressing various disability access issues regarding SDG&E education and outreach solutions.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	August 25, 2010	Verified.
2. Other Specified Date for NOI:	N/A	
3. Date NOI Filed:	September 21, 2010	Verified.
4. Was the NOI timely filed?		Yes, Disability Rights Advocates

		(DisabRA) timely filed the notice of intent to claim intervenor compensation.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.10-11-015	Verified.
6. Date of ALJ ruling:	June 3, 2011	Verified.
7. Based on another CPUC determination (specify):	See Comment Below, Part I, Section C	
8. Has the Claimant demonstrated customer or customer-related status?	Yes, DisabRA demonstrated appropriate status.	
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.10-12-005; A.10-12-006	Verified.
10. Date of ALJ ruling:	November 11, 2011	November 01, 2011
11. Based on another CPUC determination (specify):	See Comment Below, Part I, Section C	
12. Has the Claimant demonstrated significant financial hardship?	Yes, DisabRA demonstrated significant financial hardship.	
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-12-004	Verified.
14. Date of Issuance of Final Order or Decision:	December 27, 2012	Verified.
15. File date of compensation request:	February 25, 2013	Verified.
16. Was the request for compensation timely?	Yes, DisabRA timely filed the request for compensation.	

C. Additional Comments on Part I (use line reference # as appropriate):

#	Intervenor’s Comments	CPUC Response
5-8	As recognized in the A.10-11-015 June 3, 2011 ruling, the bylaws of Disability Rights Advocates satisfy the requirements of section	Verified.

	1802(b)(1)(C) by stating that its mission includes “representation of the interests of disabled residential customers, and small commercial customers who receive bundled electric service from an electrical corporation and other disabled customers of utilities.” These bylaws were previously submitted to the Commission in Attachment 2 to Disability Rights Advocates’ claim for intervenor compensation in A.08-12-021, filed November 17, 2009 (which resulted in D.10-04-024, Decision Awarding Intervenor Compensation to Disability Rights Advocates in Application 08-12-021, issued April 12, 2010).	
9-12	The ruling in Joint Proceedings A.10-12-005 and A.10-12-006 dated November 11, 2011, ruled that Disability Rights Advocates has demonstrated a showing of significant hardship under Section 1802(g).	Verified.

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(i), § 1803(a), and D.98-04-059).

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
1. In connection with this proceeding, A.10-07-009, DisabRA raised several issues in its protest and testimony related to the impact of this decision on the disability community. These issues primarily include the need for comprehensive outreach and education initiatives for customers with disabilities.	D.12-12-004 at pp. 3-4, 9, 11-12.	Verified.
2. SDG&E agrees to retain a territory-based consultant to assist in developing effective communication strategies to reach the disability community and to provide ongoing support in appropriate educational and communication efforts.	D.12-12-004 at p. 15	Verified.
3. SDG&E agrees to provide written materials regarding its residential dynamic pricing program in a customer’s preferred format, if those customers has previously indicated a preferred format.	D.12-12-004 at p. 15	Verified.
4. SDG&E agrees to provide written materials regarding its residential dynamic pricing program in a customer’s preferred format to any customer upon request.	D.12-12-004 at p. 15	Verified.
5. SDG&E agrees to maintain the capability to respond to customer calls to its customer service center	D.12-12-004 at p. 15	Verified.

regarding its residential dynamic pricing program using TTY and/or relay services.		
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	Yes	Verified.
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified.
c. If so, provide name of other parties: Utility Consumers Action Network (UCAN), The Greenlining Institute, California Farm Bureau Federation, City of San Diego, Alliance for Retail Energy Markets (AREM), Federal Executive Agencies, California Small Business Roundtable & California Small Business Association, Energy Users Forum		Agreed.
d. Intervenor's claim of non-duplication: DisabRA coordinated our efforts throughout the proceeding with other intervenors focused on the impact that SDG&E's proposed dynamic pricing would have on low-income and vulnerable Californians – primarily Greenlining and UCAN. These parties conferred frequently to discuss strategy during evidentiary hearings and to avoid overlapping arguments in briefing, as well as to discuss settlement proposals. DisabRA likewise coordinated our participation in this proceeding with DRA, Greenlining and UCAN by communicating during the settlement process and in preparation for hearings However, DisabRA was unique among the parties to this proceeding in its direct outreach to the disability community and organizations serving that community. DisabRA engaged in two-party negotiations with SDG&E regarding education and outreach for customers in the disability community. Thus, there was very little overlap between DisabRA's efforts in the settlement discussions involving the other parties, as DisabRA was the only party to the proceeding focusing primarily or exclusively on these access issues. While allowing Greenlining and UCAN to focus on arguments for increasing outreach to low-income communities and residential and small-business communities, DisabRA took on the role of giving a voice to those residential customers who were unable to participate directly in the proceeding by accurately describing the difficulties the disability community will face if SDG&E's dynamic pricing scheme is implemented without proper outreach targeted to that		Verified, DisabRA did not engage in duplicative participation.

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

community.	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§§ 1801 & 1806):**

<p>a. Intervenor’s claim of cost reasonableness: The MOU that DisabRA secured after extensive negotiations with SDG&E will yield multiple concrete benefits for SDG&E customers with disabilities including: 1) hiring a consultant to assist in developing effective communication strategies to reach the disability community including through Targeted Research and to provide ongoing support in modifying and implementing appropriate educational and communication efforts; 2) providing customers who have previously requested receiving materials in a preferred format, including those on the medical baseline program and other disabilities, with outreach information in that preferred format; 3) providing copies of the outreach information in Alternative Formats if requested; and 4) maintaining the capability of responding to customer calls using TTY and/or relay services.</p> <p>While it is not possible to directly quantify all the benefits to consumers with disabilities that Disability Rights Advocates represented in this proceeding, there is no dispute that these consumers will obtain a direct financial benefit as a result of the final decision which approved the MOU.</p> <p>In short, DisabRA’s efforts through this comprehensive MOU will improve disabled customers’ education on SDG&E’s dynamic pricing scheme. These contributions are both substantial and unique in that no other party was focused on these access issues, which are of paramount importance to many people with disabilities.</p> <p>In light of these substantial benefits which would not have been realized without DisabRA’s involvement, DisabRA considers its compensation request of \$50,639.47 to be reasonable.</p> <p>Because the overall number of hours were reasonable and the proceeding was staffed and managed efficiently, as described in detail below, the non-dollar benefits obtained bear a reasonable relationship with the costs incurred.</p>	<p><u>CPUC Verified</u> Verified.</p>
<p>b. Reasonableness of Hours Claimed. In our NOI, filed on September 21, 2010, Disability Rights Advocates estimated spending a total of 180 hours on this proceeding. In this request, DisabRA provides time records showing 145.6 hours of work on the merits and 18.25 hours of expert time on the merits. The fact that the total amount of time claimed by DisabRA is lower than this estimate and represents DisabRA’s focused attention on those limited issues where it was uniquely placed to address the needs of its constituency. Beyond its litigation and</p>	<p>Verified, but see CPUC Disallowances and Adjustments, below.</p>

<p>settlement efforts to address accessibility issues, DisabRA monitored the complex proceeding, while keeping the total amount of time spent on this effort constrained.</p> <p>Given that the MOU that DisabRA and SDG&E negotiated will yield concrete benefits for SDG&E customers with disabilities, and that DisabRA was the only party focused on outreach and education issues to the disability community, DisabRA considers its request to be reasonable.</p> <p>During the time that DisabRA represented the disability community in this proceeding, the matter was generally staffed by its senior attorney, Melissa Kasnitz, and a junior attorney, Rebecca Williford, who billed at a substantially lower rate. Ms. Kasnitz and Ms. Williford worked together efficiently. Nevertheless, in light of recent Intervenor Compensation decisions and in exercising billing judgment, DisabRA has omitted certain time entries from its billing records which reflect potentially duplicative activities. These deductions include instances in which more than one attorney performed the same task (e.g. when two attorneys reviewed the same materials).</p>	
<p>c. Allocation of Hours by Issue</p> <p>In calculating our request for compensation, Disability Rights Advocates has allocated its merits time, in the attached exhibits, into the following activity, or issue, categories:</p> <p><u>Case Management:</u> Time spent addressing procedural issues and other activities that all parties conduct in order to take part in the proceeding generally. Overall, 21% of the merits time recorded was spent on General Participation.</p> <p><u>Outreach:</u> Time spent addressing Disability Rights Advocates' focus in this proceeding - the need for education and outreach regarding SDG&E's proposed dynamic pricing scheme to customers who are low income and have disabilities. Disability Rights Advocates identified this issue as its primary focus throughout the proceeding, as one which other parties were not addressing. Overall, 79% of the merits time recorded was spent on Outreach.</p>	Verified.

B. Specific Claim:

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hour s	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Melissa W.	2010	12.9	\$420	D.10-07-013	\$5418	12.90	\$420.00	\$5,418.00

Kasnitz								
Melissa W. Kasnitz	2011	72.10	\$420	D.11-10-012	\$30,282	72.10	\$420.00	\$30,282.00
Rebecca S. Williford	2010	5.2	\$150	D.11-01-022	\$780	5.20	\$150.00	\$780.00
Rebecca S. Williford	2011	50.4	\$160	D.12-07-017	\$8,064	50.40	\$160.00	\$8,064.00
Rebecca S. Williford	2012	1.9	\$200	See Comment 7	\$380	1.90	\$200.00	\$380.00
Jamie Mauldin	2012	0.6	\$210	See Comment 8	\$126	0.60	\$200.00 [1]	\$120.00
Dmitri Belser	2011	18.25	\$225	See Comment 9 below, invoice attached with costs (but only included once in totals)	\$4,106.25	18.25	\$225.00	\$4,106.25
	Subtotal:				\$49,156.25	Subtotal:		\$49,150.25
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Paralegal	2011	2.5	\$110	D.12-07-017	\$275	2.5	\$110.00	\$275.00
	Subtotal:				\$275	Subtotal:		\$275.00
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Rebecca Williford	2010	1.0	\$75	D.11-01-022	\$75	1.0	\$75.00	\$75.00
Melissa Kasnitz	2010	1.2	\$210	D.10-07-013	\$252	1.2	\$210.00	\$252.00
Jamie L. Mauldin	2012	4.6	\$105	See Comment 8 below.	\$483	4.6	\$100.00	\$460.00
Kara Janssen	2012	3.4	\$80	See Comment 10 below	\$272	3.4	\$80.00	\$272.00
	Subtotal:				\$1,082	Subtotal:		\$1,059.00
COSTS								

#	Item	Detail	Amount	Amount	
1	Expert Fees – Dmitri Belser	18.25 hours at \$225 per hour. Invoice attached but compensation is addressed above as an expert fee.	\$0	00.00	
2	Printing/Copy Costs	In-house printing and copying costs for documents that were relevant to issues of concern for DisabRA's constituency, See Comment 3 below	\$126.22	\$126.22	
Subtotal:			\$126.22	Subtotal:	\$126.22
TOTAL REQUEST \$:			\$50,639.47	TOTAL AWARD:	\$50,610.47
<p>**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate</p>					
ATTORNEY INFORMATION					
Attorney	Date Admitted to CA BAR²		Member Number	Actions Affecting Eligibility (Yes/No?)	
Melissa Kasnitz	12/24/1992		162679	No, but inactive from 01/01/1993 until 01/25/1995, and from 01/01/1996 until 02/19/1997.	
Jamie L. Mauldin	06/30/2011		277353	No.	
Rebecca Williford	06/02/2010		269977	No.	
Kara Janssen	12/20/2010		274762	No.	

² This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

C. Intervenor's Comment(s):

Comment #	Disability Rights Advocates Comment(s)
7 (Comment)	<p>Justification for 2012 Rate for Rebecca Williford</p> <p>The 2012 rate requested for attorney Rebecca Williford is \$200. This rate has not yet been evaluated by the Commission. Ms. Williford is a 2009 graduate of the University of North Carolina School of Law and has been involved in Commission proceedings since she came to Disability Rights Advocates in 2009. Her 2011 PUC rate of \$160 was approved in D.12-07-017. In 2012, Ms. Williford moves into the 3-4 years of practice range rate (\$200-235). The requested 2012 rate is the minimum rate within this range.</p>
8 (Comment)	<p>Justification of 2012 Intervenor Compensation Rate for Jamie L. Mauldin</p> <p>Disability Rights Advocates requests a 2012 rate for attorney Jamie L. Mauldin of \$210 per hour. This rate has not yet been evaluated by the Commission. Ms. Mauldin is a 2008 graduate of the University of Houston Law Center and was admitted to the Texas bar in 2008. She was then admitted to the California bar in 2011. As a new attorney to Disability Rights Advocates, she has not previously had a rate set by the Commission. Before coming to Disability Rights Advocates, Ms. Mauldin practiced in Texas and then worked at the California Public Utilities Commission as an intern for the Administrative Law Judge Division. In her capacity as intern, she assisted several ALJ's with their assigned proceedings by performing research and drafting rulings and proposed decisions. The requested rate of \$210 is within the range for attorneys in the 3-4 year range. Thus, the requested 2012 rate for preparation of this request for intervenor compensation is \$105, which is one-half of the requested hourly rate of \$210.</p>
9 (Comment)	<p>Justification of rate for expert Dmitri Belser</p> <p>Dmitri Belser is the Executive Director of the Center for Accessible Technology, and he has frequently served as an expert witness in CPUC proceedings addressing effective communication with people with disabilities. As in this application, he served as an outside expert for Disability Rights Advocates, where he billed at an hourly rate for work performed (documented in the attached invoice as a cost for DisabRA).</p> <p>Mr. Belser's last approved rate before the CPUC was \$125 per hour for work performed in 2008, which was the rate he was then billing clients of CforAT. <i>See</i> D.09-10-025. This rate was unchanged since 2006. <i>See</i> D.08-01-033; <i>see also</i> D.11-07-024, D.09-03-018. In 2011, based on an understanding that his prior rate was well below the market rate charged by other access experts working in similar areas, Mr. Belser raised his rate to \$225 per hour.</p> <p>As noted in Mr. Belser's testimony in this and other proceedings, Mr. Belser has over 30 years of experience working in the disability community, with a great deal of focus on issues of effective communication. He has led CforAT for 12 years, and has been the president of the Ed Roberts Campus, designed as a hub</p>

	<p>for a variety of organizations serving the disability community in Berkeley and a center for disability rights. His expertise has never been challenged in this, or any other proceeding, and PG&E has specifically noted the usefulness of his contributions.</p> <p>In 2011, the CPUC's approved rate range for experts with any amount over 13 years of experience was \$155 - \$390 (<i>see</i> Resolution ALJ 267 at p. 5); the rate of \$225 per hour sought for Mr. Belser is well within that range. The proposed new rate is also now consistent with the rates that other access experts charge for comparable work. For example, Gregg Vanderheiden is an expert on accessible technology, particularly involving self-service kiosks, and he is the head of the Trace Research Center at the University of Wisconsin at Madison. His regular hourly rate that he charges to consult on access issues is \$300 per hour. Another technology access organization, the Paciello Group, provides professional consulting, technology solutions, and monitoring services to help government agencies, technology vendors, ecommerce corporations, and educational institutions provide technology access. The hourly rate for services from the Paciello Group is \$262 per hour. Experts addressing internet accessibility often charge lower rates for evaluation and remediation work, but charge up to \$350 per hour for senior staff. In its work for private clients addressing web access, CforAT charges a blended rate of \$185 per hour regardless of who is performing the work. This is consistent with a rate of \$225 for Mr. Belser, as the most senior person on the team, together with lower rates for the more junior staff.</p>
10 (Comment)	<p>Justification of 2013 Intervenor Compensation Rate for Kara Janssen</p> <p>Ms. Janssen previously practiced before the Commission as Ms. Kara Werner. In September 2011 Ms. Werner was married and legally changed her name to Ms. Janssen shortly thereafter. DisabRA is not seeking a rate increase for Ms. Janssen for 2012. The requested rate remains at \$160, the same as the rate previously approved for Ms. Janssen, at the time practicing as Kara Werner, in D.12-03-051. Thus, the requested 2012 rate for preparation of this request for intervenor compensation is \$80, which is one-half of the requested hourly rate, and the rate previously approved in D.12-03-051, of \$160. Ms. Janssen reserves the right to revisit her appropriate rate for 2013 in a future filing.</p>
11 (Comment)	<p>Summary of Costs</p> <p>Disability Rights Advocates incurred \$252.44 for in-house printing and copying costs for documents that were deemed relevant to issues of concern for our constituency. In the exercise of billing judgment, Disability Rights Advocates has reduced this amount of copying costs by 50%. Therefore, we seek \$126.22 in copying costs.</p>

D. CPUC Disallowances and Adjustments:

#	Reason
[1]	Based on the level of the experience practicing before the Commission, the

	Commission set Mauldin's rate at \$200.
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PART IV: OPPOSITIONS AND COMMENTS
Within 30 days after service of this Claim, Commission Staff
or any other party may file a response to the Claim (*see* § 1804(c))

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes.

FINDINGS OF FACT

1. Disability Rights Advocates has made a substantial contribution to Decision (D.) 12-12-004.
2. The requested hourly rates for Disability Rights Advocates' representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$50,610.47.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Disability Rights Advocates shall be awarded \$50,610.47.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay Disability Rights Advocates the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 11, 2013, the 75th day after the filing of Disability Rights Advocates' request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1212004		
Proceeding(s):	A1007009		
Author:	ALJ Wong		
Payer(s):	San Diego Gas & Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Disability Rights Advocates	02/25/2013	\$50,639.47	\$50,610.47	N/A	Change in rate.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Melissa	Kasnitz	Attorney	DisabRA	\$420.00	2010	\$420.00
Melissa	Kasnitz	Attorney	DisabRA	\$420.00	2011	\$420.00
Rebecca	Williford	Attorney	DisabRA	\$150.00	2010	\$150.00
Rebecca	Williford	Attorney	DisabRA	\$160.00	2011	\$160.00
Rebecca	Williford	Attorney	DisabRA	\$200.00	2012	\$200.00
Jamie	Mauldin	Attorney	DisabRA	\$210.00	2012	\$200.00
Dmitri	Belser	Expert	DisabRA	\$225.00	2011	\$225.00
Kara	Janssen	Attorney	DisabRA	\$160.00	2012	\$160.00

(END OF APPENDIX)